

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.424 of 2010

ORDER:

This Revision Petition is filed challenging the Order dt.06-11-2009 in E.P.No.204 of 2008 in O.S.No.251 of 2007 of the Principal Junior Civil Judge, Chodavaram

2. Petitioners herein are defendants-J.Drs in the said suit. The suit was filed by the respondents herein for perpetual injunction restraining the petitioners from interfering with their peaceful possession and enjoyment of the suit schedule property. The suit was decreed on 26-03-2008 and the petitioners were restrained from interfering with the possession and enjoyment of the suit schedule property by the respondents.
3. E.P.No.204 of 2008 was filed by the respondents against the petitioners under Order 21 Rules 32, 38 and 55 CPC for a direction to send the petitioners to civil prison since they disobeyed the said injunction. According to the respondents, when they went to conduct agricultural operations in the E.P. schedule property on 20-07-2008 and tried to plough it with a tractor with the help of coolies, the petitioners illegally and unlawfully, without any manner of right, title or possession, obstructed them. According to the respondents, elders interfered and chastised the petitioners, then they went away after threatening the respondents with dire consequences.
4. Counter affidavit was filed by the petitioners stating that they never tried to interfere with the possession and enjoyment of the

property by the respondents and due to political disputes in the village, the said E.P. was filed to harass them.

5. The respondents examined P.Ws.1 to 3 and marked Exs.A-1 to A-4. The petitioners examined themselves as R.Ws.1 and 2.
6. By order dt.06-11-2009, the Court below allowed E.P.No.204 of 2008 and directed issuance of an arrest warrant against the petitioners on payment of process. It referred to the evidence of P.Ws.1 to 3 and held that their evidence corroborated the respondents' case and in spite of cross examination, the petitioners were not able to prove the defence set up by them. It held that the P.Ws.1 and 2 were independent witnesses, that they have no ill will against the petitioners to give false evidence and that the petitioners had not adduced any independent evidence to prove their case.
7. Questioning this order, this Revision Petition is filed.
8. Learned counsel for the petitioners contends that the petitioners had never interfered with the enjoyment of the property by the respondents and that on account of other reasons, the respondents have filed the E.P. Learned counsel for the petitioners also sought to contend that P.Ws.2 and 3 do not belong to the village where the plaint schedule property is located and since they are engaged by the respondents, their evidence is likely to be biased.
9. Learned counsel for the respondents on the other hand supported the order passed by the Court below and contended that there were no merits in the Revision.

10. There is no dispute that the suit for perpetual injunction filed by the respondents against the petitioners had been decreed and the said decree had become final. The respondents had alleged that the petitioners had obstructed them when they tried to conduct agricultural operations on 20-07-2008 in the E.P. schedule property. They examined P.W.1, 1st respondent. He categorically deposed about the obstruction by the respondents. P.Ws.2 and 3 who had been engaged for ploughing the land by the respondents corroborated the evidence of P.W.1. The Court below believed their evidence on the ground that they are third parties. Thus the order passed by the Court below is based on appreciation of evidence.
11. The petitioners had not adduced any independent evidence in support of their plea and they had not examined the mediators mentioned by the P.Ws.1 to 3 to establish that the incident in question did not take place at all. Hence, I am of the opinion that there is no merit in the Civil Revision Petition.
12. It is stated that 2nd petitioner had undergone imprisonment in civil prison for a period of 20 days. Therefore, any duration for which the petitioners had been detained in the civil prison shall be given credit to.
13. With the aforesaid directions, the Civil Revision Petition is dismissed. No costs.
14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-06-2015

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